

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

IN RE:

John R Lear
Marina K Lear

Debtor(s)

Case No.: 15-32609

Chapter: 13

Hearing Date: 2/5/16

Judge Bruce W. Black (Joliet)

NOTICE OF MOTION

TO: Glenn B Stearns, Chapter 13 Trustee, 801 Warrenville Road, Suite 650, Lisle, IL 60532 by electronic notice through ECF
John R Lear, Marina K Lear, Debtor(s), 301 Adams Street, Yorkville, IL 60560
Charles L. Magerski, Attorney for Debtor(s), 900 Jorie Boulevard, Suite 150, Oak Brook, IL 60523 by electronic notice through ECF

PLEASE TAKE NOTICE that on the 2/5/16, at 10:00AM, or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge Bruce W. Black, Bankruptcy Judge, in the courtroom usually occupied by him/her at the Joliet City Hall, 150 West Jefferson Street, 2nd Floor, Joliet, Illinois 60432 or before any other Bankruptcy Judge who may be sitting in his/her place and stead, and shall then and there present this Motion of the undersigned, a copy of which is attached hereto and herewith served upon you, and shall pray for the entry of an Order in compliance therewith, at which time you may appear if you so desire.

PROOF OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed above, as to the Trustee and Debtor's attorney via electronic notice on January 28, 2016 and as to the debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on January 28, 2016.

/s/ Rachael Stokas

Attorney for Movant

Berton J. Maley ARDC#6209399

Rachael A. Stokas ARDC#6276349

Gloria C. Tsotsos ARDC#6274279

Jose G. Moreno ARDC#6229900

Peter C. Bastianen ARDC#6244346

Joel P. Fonferko ARDC#6276490

Codilis & Associates, P.C.

15W030 North Frontage Road, Suite 100

Burr Ridge, IL 60527

(630) 794-5300

C&A FILE (14-16-00473)

NOTE: This law firm is a debt collector.

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed below, as to the Trustee and Debtor's attorney via electronic notice on January 28, 2016 and as to the debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on January 28, 2016.

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John R Lear, Marina K Lear, Debtor(s), 301 Adams Street, Yorkville, IL 60560

Charles L. Magerski, Attorney for Debtor(s), 900 Jorie Boulevard, Suite 150, Oak Brook, IL 60523 by electronic notice through ECF

/s/ Rachael Stokas
Attorney for Movant

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MOTION FOR RELIEF FROM THE AUTOMATIC STAY

NOW COMES CITIMORTGAGE, INC., (hereinafter "Movant"), by and through its attorneys, Codilis & Associates, P.C., and moves this Honorable Court pursuant to 11 U.S.C. §362(d) for an Order granting Movant relief from the automatic stay and in support thereof states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and Internal Operating Procedure 15(a) of the United States District Court for the Northern District of Illinois, Eastern Division;

2. The Debtor is indebted to Movant for which the Movant claims a valid security interest in the property commonly known as 301 S. Adams Street, Yorkville, IL 60560;

3. Enforcement of this security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code upon Debtor filing of this petition on 9/24/15;

4. Movant is entitled to relief from the automatic stay under 11 U.S.C. Section 362(d) for the following reason(s):

- a. According to the chapter 13 plan, the aforementioned property known as 301 S. Adams Street, Yorkville, IL 60560 is to be surrendered;
- b. As of 01/11/2016, the Debtor(s) is/are past due for the 10/1/15, and all amounts coming due since that date. Any payments received after this

date may not be reflected in this default;

- c. As of 01/11/2016, the total post-petition default through and including 1/1/16, is \$1,003.36;
- d. On 02/01/2016, the default will continue to increase as additional amounts become due;

5. This Court has authority to order that Rule 4001(a)(3) is not applicable to the order entered in granting this motion, and Movant requests this Court so order;

6. That in the event the stay is modified, Movant requests this Court find that Rule 3002.1 is not applicable with respect to Movant as the loan secured by the property described herein will not be paid pursuant to 11 U.S.C. 1322(b)(5);

7. Movant has incurred attorney fees and/or costs in connection with this bankruptcy proceeding as follows:

\$850.00 for Preparation of Notice and Motion for Relief from the Automatic Stay, and prosecution of same

\$176.00 for Court filing fee

8. CitiMortgage, Inc. services the loan on the property referenced in this Motion for Relief. In the event the automatic stay is modified, this case dismisses, and/or the debtor obtains a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of CitiMortgage, Inc. ("Noteholder"). Noteholder directly or through an agent, has possession of the promissory note. The promissory note is either made payable to Noteholder or has been duly endorsed. Noteholder is the original mortgagee or beneficiary or the assignee of the security instrument for the referenced loan.

WHEREFORE, CITIMORTGAGE, INC. prays this Court enter an Order pursuant to 11 U.S.C. Section 362(d) modifying the automatic stay as to Movant and for such other and further relief as this Court may deem just and proper.

Dated this January 28, 2016.

Respectfully Submitted,

Codilis & Associates, P.C.

By: /s/ Rachael Stokas

Berton J. Maley ARDC#6209399

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